

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

No. 10-20535

Plaintiff,

HONORABLE DAVID M. LAWSON

-vs-

OFFENSE(S):

D-9 TABITHA GOODNER,

Misprision of Felony (18 U.S.C. § 4).

Defendant.

MAXIMUM INCARCERATION:  
Up to 3 years imprisonment.

MAXIMUM FINE:  
Up to \$250,000.00.

MAXIMUM TERM OF SUPERVISED  
RELEASE: Up to one year.

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**RULE 11 PLEA AGREEMENT**

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, defendant  
TABITHA GOODNER and the government agree as follows:

**1. GUILTY PLEA**

**A. Count of Conviction**

Defendant will enter a plea of guilty to **Count One** of the Second Superseding Information which charges misprision of felony in violation of Title 18, United States Code, Section 4.

**B. Elements of Offense(s)**

The elements of **Count One** are:

- (1) That a felony cognizable by a Court of the United States was committed by someone other than the defendant;
- (2) That the defendant had actual knowledge of that fact;
- (3) That the defendant failed to notify the relevant authorities;
- (4) That the defendant deliberately took affirmative steps to conceal the commission of the crime.

**C. Factual Basis for Guilty Plea**

The parties agree that the following facts provide a sufficient and accurate basis for defendant's guilty plea:

Beginning in or before January of 2008 and continuing until in or after August of 2010, Bobby W. Ferguson and Ferguson Enterprises, Inc., also known as Ferguson's Enterprises, Inc., committed the felony offenses of mail fraud and

conspiracy to commit mail fraud.

Specifically, Bobby W. Ferguson and Ferguson Enterprises, Inc. devised and executed a scheme to defraud and to obtain monies by means of false and fraudulent pretenses and representations and, in furtherance of that scheme and in order to execute it, sent and delivered items through the United States mail or by commercial carrier.

As part of the subject criminal activity, in or about January of 2008, Bobby W. Ferguson directed TABITHA GOODNER to create a false and fraudulent Independent Auditor's Report for Ferguson Enterprises Inc. a/k/a Ferguson's Enterprises, Inc.

Bobby W. Ferguson stated to TABITHA GOODNER that a legitimate Auditor's Report would cost tens of thousand of dollars and, in order to avoid that cost, Bobby W. Ferguson directed TABITHA GOODNER to falsely alter a document to make it appear that Ferguson Enterprises Inc. a/k/a Ferguson's Enterprises, Inc. had obtained an Independent Auditor's Report for it's balance sheet as of December 31, 2006. In fact, the cost of an Independent Audit Report from the firm whose name was fraudulently used on the subject false document would have been in excess of \$30,000.00.

As TABITHA GOODNER knew, the false and fraudulent Independent Auditor's Report was to be included in the Prequalification Application package submitted in

the name of Ferguson Enterprises, Inc. a/k/a Ferguson's Enterprises, Inc. to the Michigan State Transportation Commission.

On or about February 6, 2008, Bobby W. Ferguson sent and caused to be sent the Prequalification Application package containing the false and fraudulent Independent Auditor's Report from Ferguson Enterprises, Inc. in Detroit, Michigan to the Michigan State Transportation Commission in Lansing, Michigan. The Prequalification Application package was submitted in an effort to allow Ferguson Enterprises, Inc. a/k/a Ferguson's Enterprises, Inc. to bid on, perform and be paid for public works contracts awarded by the Michigan Department of Transportation.

In and after February of 2008, TABITHA GOODNER possessed actual knowledge that Bobby W. Ferguson and Ferguson Enterprises, Inc. and others had committed the criminal offenses of mail fraud and conspiracy to commit mail fraud.

Between February of 2008 and August of 2010, TABITHA GOODNER failed to notify the Federal Bureau of Investigation, the grand jury of the United States District Court for the Eastern District of Michigan or any other relevant authorities with respect to the subject criminal activities that were known to her.

On July 14, 2009, TABITHA GOODNER was interviewed by identified federal law enforcement agents with respect to possible criminal activities, including possible fraud, involving Bobby W. Ferguson and Ferguson Enterprises, Inc. At that time, TABITHA GOODNER provided incomplete and misleading information in a

deliberate effort to conceal the commission of the subject crimes of mail fraud and conspiracy to commit mail fraud.

At all times relevant between January of 2008 and August of 2010, TABITHA GOODNER acted knowingly, wilfully and deliberately.

**2. SENTENCING GUIDELINES**

**A. Standard of Proof**

The Court will find sentencing factors by a preponderance of the evidence.

**B. Agreed Guideline Range**

There are no sentencing guideline disputes. Except as provided below, defendant's guideline range is **0-6 months**, as set forth on the attached worksheets.

If the Court finds:

a) that defendant's criminal history category is higher than reflected on the attached worksheets, or

b) that the offense level should be higher because, after pleading guilty, defendant made any false statement to or withheld information from her probation officer; otherwise demonstrated a lack of acceptance of responsibility for her offense(s); or obstructed justice or committed any crime,

and if any such finding results in a guideline range higher than **0-6 months**, the

higher guideline range becomes the agreed range. However, if the Court finds that defendant is a career offender, an armed career criminal, or a repeat and dangerous sex offender as defined under the sentencing guidelines or other federal law, and that finding is not already reflected in the attached worksheets, this paragraph does *not* authorize a corresponding increase in the agreed range.

Neither party may take a position concerning the applicable guidelines that is different than any position of that party as reflected in the attached worksheets, except as necessary to the Court's determination regarding subsections a) and b), above.

**3. SENTENCE**

The Court will impose a sentence pursuant to 18 U.S.C. §3553, and in doing so must consider the sentencing guideline range.

**A. Imprisonment**

Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) the sentence of imprisonment in this case may not exceed the top of the sentencing guideline range as determined by Paragraph 2B.

**B. Supervised Release**

A term of supervised release, if imposed, follows the term of imprisonment. There is no agreement on supervised release. In other words, the Court may

impose any term of supervised release up to the statutory maximum term, which in this case is **not more than 1 year**. The agreement concerning imprisonment described above in Paragraph 3A does not apply to any term of imprisonment that results from any later revocation of supervised release.

**C. Special Assessment**

Defendant will pay a special assessment of **\$100.00** and must provide the government with a receipt for the payment before sentence is imposed.

**D. Fine**

Pursuant to USSG § 5E1.2, a fine of between \$1,000.00 and \$10,000.00 shall be imposed in this matter.

**E. Restitution**

Restitution is not applicable to this case.

**5. EACH PARTY'S RIGHT TO WITHDRAW FROM THIS AGREEMENT**

The government may withdraw from this agreement if the Court finds the correct guideline range to be different than is determined by Paragraph 2B.

Defendant may withdraw from this agreement, and may withdraw her guilty plea, if the Court decides to impose a sentence higher than the maximum allowed by Part 3. This is the only reason for which defendant may withdraw from this agreement. The Court shall advise defendant that if she does not withdraw her

guilty plea under this circumstance, the Court may impose a sentence greater than the maximum allowed by Part 3.

**6. RIGHT TO APPEAL**

If the sentence imposed does not exceed the maximum allowed by Part 3 of this agreement, defendant waives any right she has to appeal her conviction. Defendant retains her right to directly appeal the Court's adverse determination of any disputed sentencing issue that was raised at or before the sentencing hearing. The government agrees not to appeal any sentence within the guideline range it has recommended in Paragraph 2.B, but retains the right to appeal any determination by the Court to apply a lower range or to impose a sentence below the guideline range that is unreasonable.



**7. CONSEQUENCES OF WITHDRAWAL OF GUILTY PLEA(S) OR VACATION OF CONVICTION(S)**

If defendant is allowed to withdraw her guilty plea or if any conviction entered pursuant to this agreement is vacated, the Court shall, on the government's request, reinstate any charges that were dismissed as part of this agreement. If additional charges are filed against defendant within six months after the date the order vacating defendant's conviction or allowing her to withdraw her guilty plea(s) becomes final, which charges relate directly or indirectly to the conduct underlying the guilty plea(s) or to any conduct reflected in the attached worksheets, defendant waives her right to challenge the additional charges on the ground that they were not filed in a timely manner, including any claim that they were filed after the applicable limitations period expired.

**8. PARTIES TO PLEA AGREEMENT**

Unless otherwise indicated, this agreement does not bind any government agency except the United States Attorney's Office for the Eastern District of Michigan.


**9. SCOPE OF PLEA AGREEMENT**

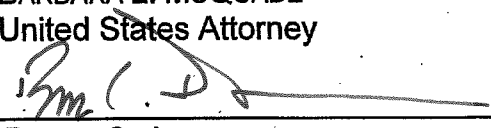
This agreement, which includes all documents that it explicitly incorporates, is the complete agreement between the parties. It supersedes all other promises, representations, understandings, and agreements between the parties concerning the subject matter of this plea agreement that are made at any time before the guilty plea is entered in court. Thus, no oral or written promises made by the government to defendant or to the attorney for defendant at any time before defendant pleads guilty are binding except to the extent they have been explicitly incorporated into this agreement.

This agreement does not prevent any civil or administrative actions against defendant, or any forfeiture claim against any property, by the United States or any other party.

**10. ACCEPTANCE OF AGREEMENT BY DEFENDANT**


This plea offer expires unless it has been received, fully signed, in the Office of the United States Attorney by **5:00 P.M. on April 29, 2011**. The government reserves the right to modify or revoke this offer at any time before defendant pleads guilty.

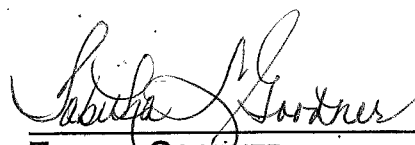
  
KATHRYN MCCARTHY  
ASSISTANT UNITED STATES ATTORNEY  
CHIEF, PUBLIC CORRUPTION UNIT

BARBARA L. MCQUADE  
United States Attorney  
  
BRUCE C. JUDGE  
ASSISTANT UNITED STATES ATTORNEY  
PUBLIC CORRUPTION UNIT

DATE: 4/29/2011

BY SIGNING BELOW, DEFENDANT ACKNOWLEDGES THAT SHE HAS READ (OR BEEN READ) THIS ENTIRE DOCUMENT, UNDERSTANDS IT, AND AGREES TO ITS TERMS. SHE ALSO ACKNOWLEDGES THAT SHE IS SATISFIED WITH HER ATTORNEY'S ADVICE AND REPRESENTATION. DEFENDANT AGREES THAT SHE HAS HAD A FULL AND COMPLETE OPPORTUNITY TO CONFER WITH HER LAWYER, AND HAS HAD ALL OF HER QUESTIONS ANSWERED BY HER LAWYER.

  
JEFFREY TAYLOR, ESQ.  
ATTORNEY FOR DEFENDANT

  
TABITHA GOODNER  
DEFENDANT

DATE:

## WORKSHEET A (Offense Levels)

Defendant: Tabitha Goodner

Count(s): One - SS Information

Docket No.: 10-20535-09

Statute(s): 18 USC § 4

Complete one Worksheet A for each count of conviction (taking into account relevant conduct and treating each stipulated offense as a separate count of conviction) before applying the multiple-count rules in U.S.S.G. ch. 3, pt. D. However, in any case involving multiple counts of conviction, if the counts of conviction are all "closely related" to each other within the meaning of U.S.S.G. § 3D1.2(d), complete only a single Worksheet A.

### 1. **BASE OFFENSE LEVEL AND SPECIFIC OFFENSE CHARACTERISTICS (U.S.S.G. ch. 2)**

<u>Guideline Section</u>	<u>Description</u>	<u>Levels</u>
Underlying Offense: 18 USC §§ 1341 & 1349		
<u>2B1.1(a)</u>	<u>Mail Fraud and Conspiracy to Commit Mail Fraud</u>	<div style="border: 1px solid black; text-align: center; width: 40px; height: 25px;">7</div>
<u>2B1.1(b)(1)(I)</u>	<u>Loss (Gain) of more than \$30,000.00</u>	<div style="border: 1px solid black; text-align: center; width: 40px; height: 25px;">+6</div>
	<u>Total</u>	<div style="border: 1px solid black; text-align: center; width: 40px; height: 25px;">13</div>
Misprision of Felony:		
<u>2X14.1</u>	<u>Subtract 9 levels from underlying offense</u>	<div style="border: 1px solid black; text-align: center; width: 40px; height: 25px;">-9</div>
		<div style="border: 1px solid black; text-align: center; width: 40px; height: 25px;">4</div>

### 2. **ADJUSTMENTS (U.S.S.G. ch. 3, pts. A, B, C)**

<u>Guideline Section</u>	<u>Description</u>	<u>Levels</u>
		<div style="border: 1px solid black; width: 40px; height: 25px;"></div>

### 3. **ADJUSTED OFFENSE LEVEL**

Enter the sum of the offense levels entered in Items 1 and 2. If this Worksheet A does not cover every count of conviction (taking into account relevant conduct and treating each stipulated offense as a separate count of conviction), complete one or more additional Worksheets A and a single Worksheet B.

4

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*If the defendant has no criminal history, check this box and skip Worksheet C.*

## WORKSHEET B (Multiple Counts)

### Instructions (U.S.S.G. ch. 3, pt. D):

- Group the counts of conviction into distinct Groups of Closely Related Counts. "All counts involving substantially the same harm shall be grouped together into a single Group." (See U.S.S.G. § 3D1.2.)
- Determine the offense level applicable to each Group. (See U.S.S.G. § 3D1.3.)
- Determine the combined offense level by assigning "units" to each Group as follows (see U.S.S.G. § 3D1.4):
  - assign 1 unit to the Group with the highest offense level,
  - assign 1 unit to each additional Group that is equally serious as, or 1 to 4 levels less serious than, the Group with the highest offense level,
  - assign ½ unit to each Group that is 5 to 8 levels less serious than the Group with the highest offense level,
  - assign no units to each Group that is 9 or more levels less serious than the Group with the highest offense level.

1. **GROUP ONE:** COUNT \_\_\_\_\_  
ADJUSTED OFFENSE LEVEL

2. **GROUP TWO:** COUNTS \_\_\_\_\_  
ADJUSTED OFFENSE LEVEL

3. **GROUP THREE:** COUNTS \_\_\_\_\_  
ADJUSTED OFFENSE LEVEL

4. **GROUP FOUR:** COUNTS \_\_\_\_\_  
ADJUSTED OFFENSE LEVEL

5. **TOTAL UNITS**

6. **INCREASE IN OFFENSE LEVEL**

1 unit → no increase      2½-3 units → add 3 levels  
1½ units → add 1 level    3½-5 units → add 4 levels  
2 units → add 2 levels      >5 levels → add 5 levels

7. **ADJUSTED OFFENSE LEVEL OF GROUP  
WITH THE HIGHEST OFFENSE LEVEL**

8. **COMBINED ADJUSTED OFFENSE LEVEL**

Enter the sum of the offense levels entered in Items 6 and 7.

## WORKSHEET C (Criminal History)

Date of defendant's commencement of the instant offense (taking into account relevant conduct and stipulated offenses): January 2008

### 1. PRIOR SENTENCES

#### **Prior Sentence of Imprisonment Exceeding 13 Months (U.S.S.G. §§ 4A1.1(a)):** **3 POINTS**

Enter 3 points for each prior adult sentence of imprisonment exceeding one year and one month that either (1) was imposed within 15 years of the defendant's commencement of the instant offenses (taking into account relevant conduct and stipulated offenses) or (2) resulted in the defendant's confinement during any part of that 15-year period. (See U.S.S.G. §§ 4A1.1(a), 4A1.2(d)(1), (e)(1).)

#### **Prior Sentence of Imprisonment of at Least 60 Days (U.S.S.G. §§ 4A1.1(b)):** **2 POINTS**

Enter 2 points for each prior sentence of imprisonment of at least 60 days not counted under U.S.S.G. § 4A1.1(a) that either (1) resulted from an offense committed after the defendant turned 18 and was imposed within 10 years of the defendant's commencement of the instant offense (taking into account relevant conduct and stipulated offenses) (see U.S.S.G. §§ 4A1.1(b), 4A1.2(e)(2)) or (2) resulted from an offense committed before the defendant turned 18 and resulted in the defendant's confinement during any part of the 5-year period preceding the defendant's commencement of the instant offense (see U.S.S.G. §§ 4A1.1(b), 4A1.2(d)(2)(A)).

#### **Other Prior Sentences (U.S.S.G. §§ 4A1.1(c)):** **1 POINT**

Enter 1 point for each prior sentence not counted under U.S.S.G. § 4A1.1(a) or (b) that either (1) resulted from an offense committed after the defendant turned 18 and was imposed within 10 years of the defendant's commencement of the instant offense (taking into account relevant conduct and stipulated offenses) (see U.S.S.G. §§ 4A1.1(c), 4A1.2(e)(2)) or (2) resulted from an offense committed before the defendant turned 18 and was imposed within 5 years of the defendant's commencement of the instant offense (taking into account relevant conduct and stipulated offenses) (see U.S.S.G. §§ 4A1.1(c), 4A1.2(d)(2)(B)). NOTE: No more than 4 points may be added under this item.

<u>Date of Imposition</u>	<u>Status*</u>	<u>Offense</u>	<u>Sentence</u>	<u>Release Date**</u>	<u>Points</u>
_____	_____	_____	_____	_____	<div></div>
_____	_____	_____	_____	_____	<div></div>
_____	_____	_____	_____	_____	<div></div>
_____	_____	_____	_____	_____	<div></div>

\* If the defendant committed the offense before turning 18, indicate whether he or she was sentenced as a juvenile (J) or as an adult (A).

\*\* A release date is required in only three situations: (1) when a sentence covered under U.S.S.G. § 4A1.1(a) was imposed more than 15 years before the defendant's commencement of the instant offense (taking into account relevant conduct and stipulated offenses) but resulted in his or her confinement during any part of that 15-year period; (2) when a sentence counted under U.S.S.G. § 4A1.1(b) was imposed for an offense committed before the defendant turned 18 but resulted in his or her confinement during any part of the 5-year period preceding his or her commencement of the instant offense (taking into account relevant conduct and stipulated offenses); and (3) when 2 criminal history points are added pursuant to U.S.S.G. § 4A1.1(e) because the defendant committed the instant offense (taking into account relevant conduct and stipulated offenses) shortly after or during imprisonment resulting from a sentence counted under U.S.S.G. § 4A1.1(a) or (b) or while he or she was on escape status for such a sentence.

(rev. 06/99)

**2. COMMISSION OF INSTANT OFFENSE WHILE UNDER PRIOR SENTENCE (U.S.S.G. § 4A1.1(d))**

Enter 2 points if the defendant committed any part of the instant offense (taking into account relevant conduct and stipulated offenses) while under any criminal justice sentence having a custodial or supervisory component, including probation, parole, supervised release, imprisonment, work release, and escape status. (See U.S.S.G. §§ 4A1.1(d), 4A1.2(m), (n).) List the type of control and identify the sentence from which it resulted.

**3. COMMISSION OF INSTANT OFFENSE SHORTLY AFTER OR DURING IMPRISONMENT (U.S.S.G. § 4A1.1(e))**

Enter 2 points if the defendant committed any part of the instant offense (taking into account relevant conduct and stipulated offenses) either less than 2 years after release from imprisonment on a sentence counted under U.S.S.G. §§ 4A1.1(a) or 4A1.1(b) or while in imprisonment or escape status on such a sentence. However enter, only 1 point for this item if 2 points were added under Item 2. (See U.S.S.G. §§ 4A1.1(e), 4A1.2(n).) List the date of release and identify the sentence from which it resulted.

**4. PRIOR SENTENCE RESULTING FROM CRIME OF VIOLENCE (U.S.S.G. § 4A1.1(f))**

Enter 1 point for each prior sentence resulting from a conviction for a crime of violence that did not receive any points under U.S.S.G. § 4A1.1(a), (b), or (c) because such sentence was considered related to another sentence resulting from a conviction for a crime of violence. But enter no points where the sentences are considered related because the offenses occurred on the same occasion. (See U.S.S.G. §§ 4A1.1(f), 4A1.2(p).) Identify the crimes of violence and briefly explain why the cases are considered related. NOTE: No more than 3 points may be added under this item.

**5. TOTAL CRIMINAL HISTORY POINTS**

Enter the sum of the criminal history points entered in Items 1-4.

**6. CRIMINAL HISTORY CATEGORY**

Total Criminal History Points

Criminal History Category

0 – 1  
2 – 3  
4 – 6  
7 – 9  
10 – 12  
≥ 13

I  
II  
III  
IV  
V  
VI

## **WORKSHEET D (Guideline Range)**

**1. (COMBINED) ADJUSTED OFFENSE LEVEL**

Enter the adjusted offense level entered in Item 3 of Worksheet A or the combined adjusted offense level entered in Item 8 of Worksheet B.

4

**2. ADJUSTMENT FOR ACCEPTANCE OF RESPONSIBILITY (U.S.S.G. § 3E1.1)**

-2

**3. TOTAL OFFENSE LEVEL**

Enter the difference between Items 1 and 2.

2

**4. CRIMINAL HISTORY CATEGORY**

Enter "I" if the defendant has no criminal history. Otherwise, enter the criminal history category entered in Item 6 of Worksheet C.

I

**5. CAREER OFFENDER / CRIMINAL LIVELIHOOD / ARMED CAREER CRIMINAL (U.S.S.G. ch. 4, pt. B)**

a. Total Offense Level: If the career offender provision (U.S.S.G. § 4B1.1), the criminal livelihood provision (U.S.S.G. § 4B1.3), or the armed career criminal provision (U.S.S.G. § 4B1.4) results in a total offense level higher than the total offense level entered in Item 3, enter the higher offense level total.

b. Criminal History Category: If the career offender provision (U.S.S.G. § 4B1.1) or the armed career criminal provision (U.S.S.G. § 4B1.4) results in a criminal history category higher than the criminal history category entered in Item 4, enter the higher criminal history category.

**6. GUIDELINE RANGE FROM SENTENCING TABLE (U.S.S.G. ch. 5, pt. A)**

Enter the guideline range in the Sentencing Table (*see* U.S.S.G. ch. 5, pt. A) produced by the total offense level entered in Item 3 or 5.a and the criminal history category entered in Item 4 or 5.b.

0-6

months

**7. STATUTORY RESTRICTIONS ON OR SUPERSESSION OF GUIDELINE RANGE**

If the maximum sentence authorized by statute is below, or a minimum sentence required by statute is above, the guideline range entered in Item 6, enter either the guideline range as restricted by statute or the sentence required by statute. (*See* U.S.S.G. § 5G1.1.) If the sentence on any count of conviction is required by statute to be consecutive to the sentence on any other count of conviction, explain why.

months



## **WORKSHEET E (Authorized Guideline Sentences)**

### **1. PROBATION (U.S.S.G. ch. 5, pt. B)**

#### **a. Imposition of a Term of Probation (U.S.S.G. § 5B1.1)**

☐

1. Probation is not authorized by the guidelines (minimum of guideline range > 6 months or statute of conviction is a Class A or a Class B felony). If this box is checked, go to Item 2 (Split Sentence).

☐

2. Probation is authorized by the guidelines (minimum of guideline range = zero months).

☐

3. Probation is authorized by the guidelines, provided the court imposes a condition or combination of conditions requiring intermittent confinement, community confinement, or home detention satisfying the minimum of the guideline range (minimum of guideline range > 0 months but ≤ 6 months).

#### **b. Length of Term of Probation (U.S.S.G. § 5B1.2)**

1. At least 1 year but not more than 5 years (total offense level ≥ 6).

☐

2. No more than 3 years (total offense level < 6).

#### **c. Conditions of Probation (U.S.S.G. § 5B1.3)**

The court must impose certain conditions of probation and may impose other conditions of probation.

### **2. SPLIT SENTENCE (U.S.S.G. § 5C1.1(c)(2), (d)(2))**

☐

- a. A split sentence is not authorized (minimum of guideline range = 0 months or > 10 months).

☐

- b. A split sentence is authorized (minimum of guideline range > 0 months but ≤ 10 months). The court may impose a sentence of imprisonment that includes a term of supervised release with a condition that substitutes community confinement or home detention for imprisonment, provided that at least one-half of the minimum of the guideline range is satisfied by imprisonment (if the minimum of the guideline range is 8, 9, or 10 months), or that at least one month is satisfied by imprisonment (if the minimum of the guideline range is 1, 2, 3, 4, or 6 months). The authorized length of the term of supervised release is set forth below in Item 4.b

### **3. IMPRISONMENT (U.S.S.G. ch. 5, pt. C)**

A term of imprisonment is authorized by the guidelines if it is within the applicable guideline range (entered in Item 6 of Worksheet D). (See U.S.S.G. § 5C1.1.)

4. **SUPERVISED RELEASE (U.S.S.G. ch 5., pt. D)**

a. Imposition of a Term of Supervised Release (U.S.S.G. § 5D1.1)

The court must impose a term of supervised release if it imposes a term of imprisonment of more than one year, or if it is required to do so by statute. The court may impose a term of supervised release if it imposes a term of imprisonment of one year or less.

b. Length of Term of Supervised Release (U.S.S.G. § 5D1.2)

☐

1. At least 3 years but not more than 5 years, where the count of conviction is a Class A or a Class B felony, i.e., an offense carrying a maximum term of imprisonment  $\geq$  25 years.

☐

2. At least 2 years but not more than 3 years, where the count of conviction is a Class C or a Class D felony, i.e., an offense carrying a maximum term of imprisonment  $\geq$  5 years but  $<$  25 years.

☐

3. 1 year, where the count of conviction is a Class E felony or a Class A misdemeanor, i.e., an offense carrying a maximum term of imprisonment  $>$  6 months but  $<$  5 years.

☐

4. The statute of conviction requires a minimum term of supervised release of \_\_\_\_\_ months.

c. Conditions of Supervised Release (U.S.S.G. § 5D1.3)

The court must impose certain conditions of supervised release and may impose other conditions of supervised release.

5. **RESTITUTION (U.S.S.G. § 5E1.1)**

☐

1. The court will determine whether restitution should be ordered and in what amount.

☐

2. Full restitution to the victim(s) of the offense(s) of conviction is *required* by statute. (See, e.g., 18 U.S.C. §§ 3663A, 2327.) The parties agree that full restitution is \$\_\_\_\_\_.

☐

3. The parties agree that the court may order restitution to the victim(s) of the offense(s) of conviction in any amount up to and including \_\_\_\_\_. (See 18 U.S.C. §§ 3663(a)(3).)

☐

4. The parties agree that the court may *also* order restitution to persons other than the victim(s) of the offense(s) of conviction. (See 18 U.S.C. §§ 3663(a)(1)(A), 3663A(a)(3).)

☐

5. Restitution is not applicable.

**6. FINE (U.S.S.G. § 5E1.2)****a. Fines for Individual Defendants**

The court must impose a fine unless "the defendant establishes that he [or she] is unable to pay and is not likely to become able to pay any fine." (See U.S.S.G. § 5E1.2(a).) Generally, the fine authorized by the guidelines is limited to the range established in the Fine Table. (See U.S.S.G. § 5E1.2(b).) However, there are exceptions to this general rule. (See U.S.S.G. § 5E1.2(b), (c)(4).)

**b. Fine Range from Fine Table (U.S.S.G. § 5E1.2(c)(3))**

<u>Minimum Fine</u>	<u>Maximum Fine</u>
\$ <u>100.00</u>	\$ <u>5,000.00</u>

**7. SPECIAL ASSESSMENT(S) (U.S.S.G. § 5E1.3)**

The court must impose a special assessment on every count of conviction. The special assessments for individual defendants are

- \$100.00 for every count charging a felony (\$50.00 if the offense was completed before April 24, 1996)
- \$ 25.00 for every count charging a Class A misdemeanor,
- \$ 10.00 for every count charging a Class B misdemeanor, and
- \$ 5.00 for every count charging a Class C misdemeanor or an infraction.

The defendant must pay a special assessment or special assessments in the total amount of \$ 100.00.

**8. ADDITIONAL APPLICABLE GUIDELINES, POLICY STATEMENTS, AND STATUTES**

List any additional applicable guideline, policy statement, or statute.

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**9. UPWARD OR DOWNWARD DEPARTURE (U.S.S.G. ch. 5, pts. H & K)**

List any applicable aggravating or mitigating circumstance that might support a term of imprisonment above or below the applicable guideline range.

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